

Senate File 2037 - Introduced

SENATE FILE 2037

BY PETERSEN

A BILL FOR

1 An Act modifying the periods of time to bring certain civil
2 actions, including by victims of sexual abuse, minors, and
3 persons with mental illness, entitling certain cases to a
4 preference in trial order, and including effective date
5 provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 602.1205, Code 2020, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 3. *a.* The district court shall try civil
4 cases in the order in which cases are initiated by the filing
5 of a petition, provided that the following cases shall be
6 entitled to a preference:

7 (1) Actions that have been revived pursuant to section
8 614.1, subsection 12, paragraph "b", or section 614.8A,
9 subsection 2.

10 (2) An action in which the interests of justice, as
11 determined by the supreme court, will be served by early trial.

12 *b.* The court shall adopt rules to implement this subsection.

13 *c.* Unless the court otherwise orders, notice of a motion
14 for preference shall be served with the petition by the party
15 serving the petition, or ten days after such service by any
16 other party.

17 Sec. 2. Section 614.1, subsection 12, Code 2020, is amended
18 to read as follows:

19 12. *Sexual abuse or sexual exploitation by a counselor,*
20 *therapist, or school employee.*

21 *a.* (1) An If the victim was eighteen years of age or older,
22 an action for damages for injury suffered as a result of sexual
23 abuse, as defined in section 709.1, by a counselor, therapist,
24 or school employee, as defined in section 709.15, or as a
25 result of sexual exploitation by a counselor, therapist, or
26 school employee shall be brought within five years of the date
27 the victim was last treated by the counselor or therapist, or
28 within five years of the date the victim was last enrolled in
29 or attended the school.

30 (2) If the victim was a minor, an action for damages for
31 injury suffered as a result of sexual abuse, as defined in
32 section 709.1, by a counselor, therapist, or school employee,
33 as defined in section 709.15, or as a result of sexual
34 exploitation by a counselor, therapist, or school employee may
35 be brought at any time.

1 b. (1) Notwithstanding paragraph "a", subparagraph (2),
2 every claim or cause of action brought against any party
3 alleging intentional or negligent acts or omissions by a person
4 for physical, psychological, or other injury or condition
5 suffered as a result of conduct which would constitute sexual
6 abuse as defined in section 709.1, by a counselor, therapist,
7 or school employee as defined in section 709.15, or as a
8 result of sexual exploitation by a counselor, therapist, or
9 school, which is barred as of the effective date of this Act
10 because the applicable period of limitation has expired or
11 the plaintiff previously failed to file a petition, is hereby
12 revived, and action thereon may be commenced not earlier than
13 six months after, and not later than two years and six months
14 after, the effective date of this Act.

15 (2) Dismissal of a previous action, ordered before the
16 effective date of this Act, on grounds that such previous
17 action was time-barred, or of failure of a party to file a
18 petition, shall not be grounds for dismissal of a revival
19 action pursuant to this paragraph.

20 Sec. 3. Section 614.8, Code 2020, is amended to read as
21 follows:

22 **614.8 Minors and persons with mental illness.**

23 1. The Except as provided in section 614.1, subsection
24 12, or section 614.8A, the times limited for actions in this
25 chapter, or for complaints or claims in chapter 216, 669, or
26 670, except those brought for penalties and forfeitures, are
27 extended in favor of persons with mental illness, so that they
28 shall have one year from and after the termination of the
29 disability within which to file a complaint pursuant to chapter
30 216, to make a claim pursuant to chapter 669 or 670, or to
31 otherwise commence an action.

32 2. Except as provided in section 614.1, subsection 9 or
33 12, or section 614.8A, the times limited for actions in this
34 chapter, or for complaints or claims in chapter 216, 669, or
35 670, except those brought for penalties and forfeitures, are

1 extended in favor of minors, so that they shall have one year
2 from and after attainment of majority within which to file a
3 complaint pursuant to [chapter 216](#), to make a claim pursuant to
4 chapter 669, or to otherwise commence an action.

5 Sec. 4. Section 614.8A, Code 2020, is amended to read as
6 follows:

7 **614.8A Damages Commencement of action for minor or child**
8 **sexual abuse and other sexual offenses — no time limitation.**

9 ~~An action for damages for injury suffered as a result of~~
10 ~~sexual abuse which occurred when the injured person was a~~
11 ~~child, but not discovered until after the injured person is of~~
12 ~~the age of majority, shall be brought within four years from~~
13 ~~the time of discovery by the injured party of both the injury~~
14 ~~and the causal relationship between the injury and the sexual~~
15 ~~abuse.~~

16 1. Notwithstanding the times limited for actions in this
17 chapter, an action relating to injuries suffered as a result of
18 sexual abuse as defined in section 802.2, and injuries suffered
19 as a result of other sexual offenses including lascivious acts
20 with a child in violation of section 709.8, assault with intent
21 to commit sexual abuse in violation of section 709.11, indecent
22 contact with a child in violation of section 709.12, lascivious
23 conduct with a minor in violation of section 709.14, sexual
24 misconduct with a juvenile in violation of section 709.16,
25 subsection 2, child endangerment in violation of section 726.6,
26 or sexual exploitation of a minor in violation of section
27 728.12, which occurred when the injured party was a minor may
28 be brought at any time.

29 2. a. Notwithstanding subsection 1, every claim or cause
30 of action brought against any party alleging intentional
31 or negligent acts or omissions by a person for physical,
32 psychological, or other injury or condition suffered as a
33 result of conduct which would constitute sexual abuse as
34 defined in section 709.1, by a counselor, therapist, or school
35 employee as defined in section 709.15, or as a result of sexual

1 exploitation by a counselor, therapist, or school, which
2 is barred as of the effective date of this Act because the
3 applicable period of limitation has expired or the plaintiff
4 previously failed to file a petition, is hereby revived, and
5 action thereon may be commenced not earlier than six months
6 after, and not later than two years and six months after, the
7 effective date of this Act.

8 b. Dismissal of a previous action, ordered before the
9 effective date of this Act, on grounds that such previous
10 action was time-barred, or of failure of a party to file a
11 petition, shall not be grounds for dismissal of a revival
12 action pursuant to this section.

13 Sec. 5. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
14 immediate importance, takes effect upon enactment.

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill modifies the periods of time to bring civil actions
19 relating to young persons and persons with mental illness and
20 entitles certain cases to a preference in trial order.

21 Under current Code section 614.1(12), a civil action for
22 damages for injury suffered as result of sexual abuse, as
23 defined in Code section 709.1, or sexual exploitation, by a
24 counselor, therapist, or school employee, each as defined in
25 Code section 709.15, can only be brought within five years
26 after the date that the victim was either last treated by
27 the counselor or therapist or last enrolled in or attended
28 the school. The bill amends the current law by making a
29 distinction between victims that are minors at the time of
30 abuse and victims that are 18 years of age or older at the time
31 of abuse. The bill does not change the statute of limitations
32 for victims that are 18 years of age or older at the time of
33 abuse. For victims that are minors at the time of abuse, the
34 bill provides that victims may bring an action at any time, but
35 that a claim that arises prior to the effective date of the

1 bill must be brought not earlier than six months after, and
2 not later than two years and six months after, the effective
3 date of the bill. If an action was previously dismissed before
4 the effective date of the bill on the grounds that it was
5 time-barred or because the party failed to file a petition, the
6 party shall have a right to file a revival action.

7 Under current Code section 614.8, the applicable limitations
8 period in which to bring certain civil actions is extended for
9 persons with mental illness and minors. Under current Code
10 section 670.2, a municipality is subject to liability for the
11 municipality's torts and those of the municipality's officers
12 and employees, acting within the scope of such officers'
13 and employees' employment or duties. Under current Code
14 section 670.5, an action for damages for an injury against a
15 municipality cannot be brought after two years of the alleged
16 injury, except as provided in Code section 614.8.

17 The bill amends Code section 614.8 to specify that the
18 extension of the limitations period for persons with mental
19 illness and for minors applies to claims brought pursuant to
20 Code chapter 670, which chapter is already referenced at the
21 beginning of the sentences extending the limitations period.

22 The amendment to Code section 614.8A in the bill extends
23 the time for filing a civil action relating to sexual abuse
24 which occurred when the injured person was a minor from one
25 year after the attainment of majority or within four years
26 from the time of discovery of both the injury and the causal
27 relationship between the injury and the sexual abuse to any
28 time. The amendment also provides for the filing of civil
29 actions for injuries incurred from other sexual offenses. The
30 bill provides that a claim related to such offenses that arises
31 prior to the effective date of the bill shall be brought not
32 earlier than six months after, and not later than two years and
33 six months after, the effective date of the bill. If an action
34 was previously dismissed before the effective date of the bill
35 on the grounds that it was time-barred or because the party

1 failed to file a petition, the party shall have a right to file
2 a revival action.

3 The bill provides that the district court shall try civil
4 cases in the order in which cases are initiated by the filing
5 of a petition, but entitles cases to preference if the cases
6 have been revived pursuant to Code section 614.1(12)(b) or Code
7 section 615.8A(2) or actions in which the interests of justice,
8 as determined by the supreme court, will be served by early
9 trial. The bill provides that the court shall adopt rules to
10 implement this provision of the bill. The bill provides that
11 if a party intends to invoke this preference, the party must
12 notice the motion for preference with the petition by the party
13 serving the petition or 10 days after such service by any other
14 party.

15 The bill takes effect upon enactment.